

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEW MEXICO

NANCY HERNANDEZ-RIOS,

Plaintiff,

v.

Case No. CV-09-615 JEC/GBW

MANAGEMENT & TRAINING CORPORATION,
and CARLOS “CHARLIE” MCARLEN,

Defendants.

ORDER GRANTING IN PART AND DENYING IN PART MOTION TO COMPEL

THIS MATTER is before the Court on Plaintiff’s Motion to Compel Discovery. *Doc. 63*. The matter is fully briefed, and the Court held a hearing on the Motion on November 15, 2010. *See Docs. 71, 76, 93*.

In this Motion, the first disputed discovery matter is a request to produce “all contracts and agreements between [MTC] and the Department of Homeland Security/Immigration and Customs.” *Doc. 63* at 2. At the hearing, Plaintiff agreed to limit the request to contracts between MTC and Otero County relating to the Otero County Prison Facility (“OCPF”). With that limitation, MTC withdrew its objection to production. Consequently, the Motion to Compel as to this request will be denied as moot.

The second disputed discovery matter is a request to produce “all personnel files and photographs of employees who have been accused of sexual issues.” *Id.* At the

hearing, Plaintiff withdrew this request, and therefore the Motion to Compel as to this request will be denied as moot.

The third disputed discovery matter is a request to produce the “arrest records, statements, files and address and phone numbers of all cell mates of Plaintiff during her detainment.” *Id.* The proffered relevance of this information is to track down potential eyewitnesses to the events surrounding the alleged assault. While information which could lead to the interview of potential eyewitnesses is “reasonably calculated to lead to the discovery of admissible evidence,” this request goes far beyond that explanation. The Court will partially grant the Motion to Compel on this request and require Defendant to disclose the intake sheets of Plaintiff’s cell mates with any information beyond name, address and phone number redacted. Beyond those disclosures, the Motion to Compel as to this request is denied.

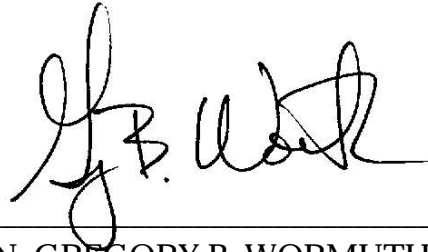
The fourth disputed discovery matter is a request to produce documentation relating to any “claim filed against [MTC] where it was alleged that an inmate was sexually touched by prison personnel in any [facility].” *Id.* The Motion to Compel on this request will be granted as to claims involving sexual assaults by prison personnel against inmates at OCPF for the five years preceding Plaintiff’s release from OCPF. Beyond those disclosures, the Motion to Compel as to this request is denied for the reasons described at the hearing.

The fifth disputed discovery matter is a request to produce “all claim files, investigative reports, letters, notices, lawsuits, A-1 reports, internal affairs records, and judgments concerning claims or complaints made by persons of assault at your facility. “ *Id.* The Motion to Compel on this request will be granted as to claims involving assaults by prison personnel against inmates at OCPF for the five years preceding Plaintiff’s release from OCPF. Beyond those disclosures, the Motion to Compel as to this request is denied for the reasons described at the hearing.

The sixth disputed discovery matter is an interrogatory seeking the “names, addresses and phone numbers of all female inmates detained in Defendant’s facility during [Plaintiff’s detention].” *Id.* The Motion to Compel on this request will be granted to the extent that, if such contact information is not contained on the intake sheet ordered disclosed above, but is located elsewhere in the inmate file, then Defendant shall disclose the contact information in response to this interrogatory.

The seventh disputed discovery matter is an interrogatory seeking a description of “any other incidents, disciplinary actions or claims against [MTC] where it was alleged that a detainee was sexually assaulted and/or excessive force was used on a detainee.” *Id.* For the reasons described at the hearing, the Motion to Compel as to this request is denied.

IT IS SO ORDERED.

A handwritten signature in black ink, appearing to read 'G.B. Wormuth', is positioned above a horizontal line.

HON. GREGORY B. WORMUTH
UNITED STATES MAGISTRATE JUDGE